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today was not written for publication and is  
not binding precedent of the Board

Paper No. 23

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte JEAN M. GOLDSCHMIDT,  
ANTHONY A. SHAH-NAZAROFF,  
CHRISTOPHER D. WILLIAMS  
and KATHLEEN LANE

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Appeal No. 2001-2003  
Application 08/939,185

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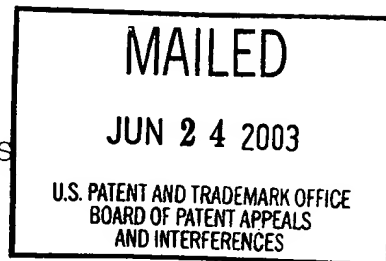
ON BRIEF

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Before THOMAS, KRASS, and BARRY, Administrative Patent Judges.  
THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellants have appealed to the Board from the examiner's  
final rejection of claims 43-48 and 55-90. Representative  
claim 43 is reproduced below:



43. A graphical user interface (GUI) for presenting data associated with an entertainment selection, comprising: textual data about the entertainment selection received from a first one from among a plurality of different entertainment system data sources; and

a multimedia identifier corresponding to the entertainment selection and selectable to display entertainment system data about the entertainment selection receivable from a second one from among the plurality of different entertainment system data sources.

The following reference is relied on by the examiner:

Lopresti et al. (Lopresti)      5,889,506      Mar. 30, 1999  
(filing date Oct. 25, 1996)

Claims 43-48, 55-57, and 59-90 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Lopresti. Claim 58 stands rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner relies upon Lopresti alone.

Rather than repeat the positions of the appellants and the examiner, reference is made to the briefs and the answer for the respective details thereof.

#### OPINION

We sustain the rejection of all claims on appeal under 35 U.S.C. § 102 and claim 58 under 35 U.S.C. § 103 for the reasons set forth by the examiner in the answer as embellished

upon here. Appellants present arguments only as to claim 43 and consider it representative of other independent claims 72 and 85 in accordance with the grouping at page 6 of the principal brief on appeal. Independent claim 55 is separately argued as are dependent claims 44 and 58. There are no arguments in the principal brief and reply brief as to any other claim on appeal. We therefore direct our remarks to claims 43, 44, 55 and 58.

Turning first to claim 43 representative of independent claims 72 and 85, as noted by appellants in the brief and reply brief, there appears to be some ambiguity as to the manner in which the examiner expresses the correlation of the subject matter of representative claim 43 on appeal to the teachings of Lopresti. Nevertheless, we do not agree with appellants' views, such as those expressed at page 8 of the principal brief on appeal, that they are "unable to find any teachings in Lopresti that teach or suggest the combination of Claim 43."

Appellants make mention in the initial paragraphs of the reply brief certain background information relative to representative claim 43 on appeal from the specification as

filed. Our review of this information indicates it is remarkably expansive in nature as to what various sources of data and identifiers may comprise yet, at the same time, Lopresti clearly appears to us to anticipate even some of them to the extent broadly recited in the representative claim 43 on appeal. The overall context of Lopresti is consistent with what appellants regard as the background of the invention: there is a convergence of computer systems and transitional entertainment systems as recognized at page 7 of the principal brief on appeal. Column 1 of Lopresti indicates in part the availability of "up to 500 channels of programming, and a variety of on-demand services, including home shopping and banking, interactive games and entertainment, multimedia libraries and full access to the Internet." (Column 1, lines 19-22). The paragraph bridging columns 6 and 7 of Lopresti indicates that much of the video user environment is implemented in software, such as that depicted in Figure 6, which "could also be downloaded to random access memories RAM 74 and RAM 86 over various transmission media, including but not limited to, standard telephone lines, fiber optic cable, or the television cable that also delivers the video signals."

Page 1 of appellants' specification also recognizes that a part of the prior art are known programming guides which "provide an on-screen display of programming information for channels supported by the cable system." Specification, page 1, lines 18-19. It is then asserted at lines 19-20 that the programming guides "do not store or display entertainment system data from sources other than the cable company to the user." It will be shown that Lopresti does this. Such additional sources that are listed at the bottom of page 1 of the specification include the video library, for which there is a specific teaching in Lopresti as well. It is asserted that in accordance with the prior art, the entertainment system data from various sources is not available to the user on the cable systems programming guide. It will be shown in context that additional, or claimed second sources of information are available to the user of Lopresti's devices.

Figure 7 of Lopresti shows a screen snapshot of a command bar for the user interface. The command bar 32 depicts in text form various source devices, which are embellished upon in accordance with the showing in Figure 2. Additionally, there are different/other sources of information than the devices listed in

Figure 7 and shown in Figure 2 in accordance with the textual description of the command bar 32. Thus, it is clear that the user may make an entertainment selection among the various sources available on the command bar 32 and textual data is presented to the user relative to the selection made in accordance with the preamble and the initial recitation of the body of claim 43 on appeal.

As an example of the nature of the sources selectable from the command bar 32 in Figure 7, the TV selection may be made which is further shown in Figure 10. This figure includes the ability to actuate a channel list 144 and a schedule 146, both of which are respectively shown in detail in Figures 11 and 12. At least with respect to Figure 11, one significant feature of Lopresti's device, well-noted by appellants in the brief, is the ability of the user of the hand-held remote control unit to enter user-drawn annotations or commands via a digitalizing writing surface 26. This is shown in Figure 11 where, in accordance with the channel list selection 144 in Figure 10, the user has annotated various channels with handwritten data. The nature of this data is best characterized at the bottom of column 7 and the top of column 8 which indicates that the user is able to draw

short descriptive pictograms, and may enter text strings 122 and an associated ink region 124 (see Figure 8). It is this ink region that is stated at the top of column 8 to be totally unconstrained, giving the user the ability to draw a picture, a doodle, a signature, a word written in any language and so forth. Finally, it is stated at the end of the paragraph at the top of column 8 that this same paradigm is utilized in the other video user environments other than the user identification capability in Figures 8 and 9.

It is thus clear that the reference indicates the use of a multimedia identifier selectable by the user which corresponds in some manner to an entertainment selection already made and, where the multimedia identifier is selectable, to display entertainment system data about the selection retrievable from a second source among a plurality of different sources. The second or different source clearly is the user hand-held device in this case who enters data in an informational format retrievable by the device.

Likewise, in accordance with the television schedule presentation element 146 in Figure 10, reference is made to Figures 12 and 13. There, the TV schedule in Figure 12 is presented to the viewer in the form of textual data from an

active scheduling source as indicated at column 9. One textual data source is the channel list 144 in Figure 11 for which additional data as to any selected channel may be further depicted by accessing the schedule identifier 146 in Figure 7 shown in detail in Figures 12 and 13, both of which clearly may be construed as broad multimedia identifiers from different sources that are selectable by the user. For any channel selected according to the channel list in 144 in Figure 11, the user is presented with the ability to select a particular program among any given selectable channel in accordance with the showing in Figure 12. The particular program represents a second source.

Of particular interest in the Figure 12 showings and teachings with respect to this figure is the ability of the user to select various icon categories 152 and affix them to each of the respective boxes for any given program at any given time for any given channel depicted in Figure 12. Again, this clearly represents multimedia identifier information from a second or different source among a plurality of sources.

This ability in Lopresti is stated to present to the user a stated improvement over active scheduling since each program is tagged with a predefined icon indicating its genre. This clearly



is an additional source other than the representative programming guide information from the cable company such as is discussed at the bottom of specification page 1 on appeal, which was stated not to exist in the prior art. This is discussed at column 9, lines 27 through 50, of Lopresti.

In an additional context, the showing in Figure 7 of the various categories or sources associated with the command bar 32 further include library, games, shopping and I-mail. These are in part depicted in Figures 15-17. The various textual type information shown in association with the command bar and the various textual information associated with any one of these categories from command bar 32 depicted in Figures 15-17, for example, have access to second sources of information correlated to the selection made from the various icons depicted in these figures. These are clearly multimedia identifiers. Note the discussion at columns 10 and 11 of Lopresti. Although not shown in any figure, the capability of the video library on the command bar 32 is discussed in the context of video on demand, which clearly would be an additional different source than the textual information represented in the selection of the library itself. Additionally, selected archival event data may also be retrieved

as a second source. The video game depiction in Figure 17 is stated to be an online capability, thus requiring clearly an additional, second source. The same is said for shopping services and the I-mail, both of which make specific references to hypertext links and the Internet in addition to the references made to the Internet at column 1, line 22 and column 4, lines 36-39. All this is significant in the context of the rejection under 35 U.S.C. § 103 of claim 58 on appeal.

We are thus unpersuaded by appellants' arguments in the brief and reply brief as to the rejection of claim 43 on appeal. Appellants merely assert that the single words TV and library, etc., do not read on the textual data about the entertainment selection, a view which we do not agree with. As explained by us earlier in this opinion, we are in agreement with the examiner's view expressed best at the bottom of page 5 of the answer that a multimedia identifier of the type set forth in claim 43 on appeal represents another data source and in part includes the ability of the user to on-screen program information including the ability to enter basically any type of indicia information on the digitalizing written surface 26. It is clear from our correlation that once a particular textual data identifier is

selected, then the same selected identifier has multimedia identifiers available to the user which retrieves information from a second or different source representing additional information about the same entertainment selection. The user may choose a particular channel in Figure 11 and, for that same selected channel, Figure 12 shows additional information from a TV schedule source. We are unpersuaded as well by appellants' arguments at the top of page 10 of the principal brief on appeal that the hand drawn symbols merely represent user commands. It is clear from the end of the abstract that the user has the ability to completely annotate in any manner using any type of indicia information any selectable item.

We are likewise unpersuaded by appellants' arguments at principal brief page 14 regarding the subject matter of dependent claim 44. At the outset, we note that the showing in Figure 12 of Lopresti compares with specification Figure 6. The depiction of various types of data for any given program or schedule at any given point in time for a given channel shown in this figure clearly comprises various traits in claim 44 where the iconic category designation clearly may be considered to be an identifier portion indicating general types of descriptive data

of the entertainment system data represented and the actual name of a program presents specific data related to that generic trait or category.

The subject matter of independent claim 55 is anticipated by Lopresti, at least to the extent argued at pages 12 and 13 of the principal brief on appeal and the reply brief beginning at page 7. As to this claim, we note initially that appellants present no arguments that the data engine and the graphical query interface features of claim 55 are not taught or suggested in Lopresti at page 13 of the principal brief on appeal. As to the remaining data parser feature, appellants recognize at the bottom of page 7 of the principal brief on appeal that Lopresti's remote control device parses the handwritten symbols traced on the remote control pad. This is repeated at page 13 of the principal brief on appeal. Appellants' argument that Lopresti's symbols, such as the hand-drawn symbols by the user, are associated with channels and not with programs is misplaced since the claimed feature of the data parser relates only to broad entertainment system data associated with an entertainment selection and not with channels or programs. Still, a broadly defined entertainment selection clearly could be a channel or a program.

Additionally, in the context of our earlier discussion, an entertainment selection can clearly be TV from the command bar 32 as well as to then select a particular channel. Additionally, we do not agree with appellants' views that the remote control writing pad information comes in the same format, since the various types of tracings of the stylus and the writing pad enables the user to pre-code any type of broadly definable multimedia data. One format is iconic information, or pictograms, or handwritten, or printed text, all of which are obviously different formats.

Appellants' arguments as to claim 55 are also misplaced since the examiner's correlation of this claim to the discussion at column 12 and Figures 17-19 is not so clearly misplaced as appellants would have us believe. The plurality of different multimedia formats are in part representative of the type of indicia that we indicated earlier was taught at columns 7 and 8 of Lopresti and of which are depicted in graphical form in Figure 17. Additionally, the ability of Lopresti's system to communicate with on-demand services, video libraries, video games, shopping and the I-mail itself obviously requires the reformatting of information from different sources into a common or unitary data format for use by the hand-held device of

Lopresti. As such, the data engine requirement of claim 55 for receiving reformatted information and storing it in the various data stores of Figures 4-6 of Lopresti appears to be self-evident. The bulk of the discussion in this opinion already has indicated that various graphical query interface capabilities exist in the hand held device of Lopresti to the extent broadly recited at the end of claim 55 on appeal.

Finally, we make mention earlier in this opinion our observations about the accessibility of various types of additional, second or different data sources as inclusive of the Internet, which obviously indicates to the artisan the use of a uniform resource locator (URL) as recited in claim 58. Each of these references is clearly a second location external to the databases of Lopresti's device. Because Lopresti does teach the features recited in dependent claim 58, we are unpersuaded by appellants' remarks at page 15 of the principal brief on appeal.

As a final matter, we note in passing that the subject matter of claims 43-48 and 60-67 may be subject to rejections under 35 U.S.C. § 101 as being directed to non-statutory subject matter, a graphical user interface per se. This clearly is a data construct, such as in the form of an abstract intellectual

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concept of information. These claims are in direct contrast to the clear apparatus set forth in independent claim 55 and its dependent claims, the use of the machine-readable medium and the indicia thereon in independent claim 72 and its dependent claims and the method of presenting various information to the user allowing the user to select it in independent claim 85 and its dependent claims.

In view of the foregoing, the decision of the examiner rejecting various claims under 35 U.S.C. § 102 and 35 U.S.C. § 103 is affirmed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

James D. Thomas  
Administrative Patent Judge

Errol A. Krass  
Administrative Patent Judge

Lance Léonard Barry  
Administrative Patent Judge

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Lawrence M. Cho  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN  
12400 Wilshire Blvd.  
7th Floor  
Los Angeles, CA 90025